

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CHAMBERS OF  
KATHARINE S. HAYDEN  
JUDGE

FRANK R. LAUTENBERG P.O. & U.S. COURTHOUSE  
FEDERAL SQUARE, NEWARK, NJ 07101-0999  
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Re: SPENCER SAVINGS BANK, S.L.A. v. BANK OF AMERICA CORPORATION et al 14cv4633

Dear Counsel,

It has come to my attention that during the pendency of this case purchase of stock in Bank of America in a joint account and in my husband's IRA account was made in error. When this was discovered, all shares in both accounts were sold.

This stock ownership neither affected, nor impacted, my decisions in this case. However, it does raise issues about recusal under the Code of Conduct for United States Judges. I bring to your attention Advisory Opinion 71, from the Judicial Conference Codes of Conduct Committee, which provides the following guidance for addressing disqualification that is not discovered until after a judge has participated in a case:

[A] judge should disclose to the parties the facts bearing on disqualification as soon as those facts are learned, even though that may occur after entry of the decision. The parties may then determine what relief they may seek and a court (without the disqualified judge) will decide the legal consequence, if any, arising from the participation of the disqualified judge in the entered decision.

Although Advisory Opinion 71 contemplated disqualification after a Court of Appeals oral argument, the Committee explained "[s]imilar considerations would apply when a judgment is entered in a district court by a judge and it is later learned that the judge was disqualified."

The within matter settled, but given the scope of Advisory Opinion 71, should you wish to respond you may do so within ten (10) days of the docketing of this letter.

Sincerely yours,

Katharine S. Hayden